



# A Satire Grading Google's Search Antitrust Remedies In the EU Market Test

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\*A research consultancy for Fortune 500 clients,  
some of whom are Google competitors.

# Google's Faux Search Remedy Proposal to Close Investigation

**EU: You are dominant**  
**EU: You abused your dominance**  
**EU: You must take responsibility**  
**EU: You must remedy it**

*"The Commission's preliminary view is that Google is dominant in the European Economic Area (EEA) both in web search and search advertising. For instance, Google has been holding market shares in web search well above 90% in most European countries for several years now... There are also significant barriers to entry and network effects in both markets. The Commission has also reached the preliminary conclusion that in four areas Google may be abusing its dominant position..."*

## **EU's Preliminary Findings**

[http://europa.eu/rapid/press-release\\_MEMO-13-383\\_en.htm](http://europa.eu/rapid/press-release_MEMO-13-383_en.htm)

**Google: No we aren't**  
**Google: No we didn't**  
**Google: No we won't**  
**Google: Only to close the investigations**

**F**  
*only serves Google's interests*

*"Nothing in these Commitments should be construed as establishing a violation of EU competition rules or an admission that Google agrees with the concerns expressed in the Commission's preliminary assessment, or with any factual allegation or legal conclusion asserted...Google expressly denies any wrongdoing or that it has any liability relating to the Commission's investigation... Google offers these Commitments to avoid the time, inconvenience, and expense of ongoing proceedings ... and [to] close all open investigations on the four competition concerns"*

## **Google's "Commitments"**

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

# Google's Search Remedy Proposal is Backwards

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

## Google's Proposed Remedy

Google remains free to monitor hens

Assisted by a Google-approved monitor



## Hen's Proposed Remedy

EU and hens monitor Fox

EU finds and appoints monitor



**Google is proposing to turn the world upside down**  
**Rather than the EU regulating dominant Google to not harm competition,**  
**Google proposes to be new regulator of the harmed search competitors!**

***“Google Commitments: ... Annex 1 - Selection And Ranking Of Rival Links***

*This Annex describes the selection and ranking of Rival Links pursuant to paragraphs 2 and 3 of the Commitments. | Basic Principles”*

**Eleven pages follow of how Google proposes to regulate the selection and ranking of rival links... see:**

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

**A+ for  
Goobris!**



# Google Proposes the Fox Guard the Hen House

If EU “closes all open investigations on the four competition concerns,” Google will under narrow, hard-to-follow conditions: [http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

- Label/distinguish Google-owned content in results from competitors’ with a nice “frame” that draws the users eye & gets more clicks than unframed results;
- Decide which 3 search competitors Google will charge extra to get fairer results;
- Decide which monitors the EU can choose from, to enforce Google’s proposal.



“What possible conflict could we have to abuse our unique expertise to game this proposal!”

**A**  
for Chutzpah



# Google's *Rube Goldberg* Search Remedies

## Make it so complex only Google can understand its effect

### Simple EU Solution

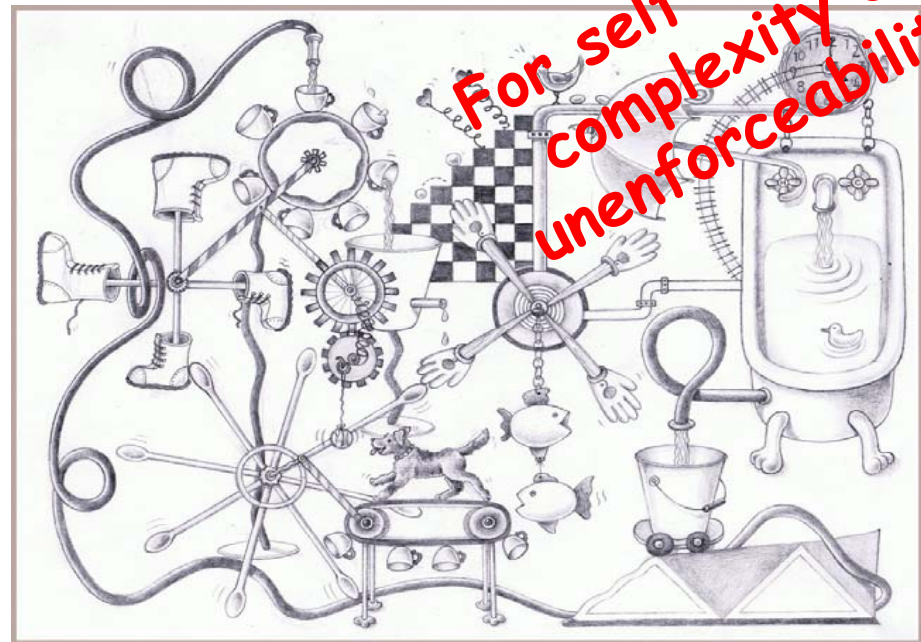
EU requires Google to follow  
a standard monopoly  
non-discrimination principle

Google must treat others  
as it treats itself in  
search & search advertising

*hmmm doesn't Google already  
claim its search is unbiased?*

### Google's Proposed Solution

Google's 60 page proposal of legalese that describes what search results in what conditions will be labeled in what way with what competitors in what situations which can compete with Google at what price, terms and conditions, under what definition, of what sub-part, of which exemption in which circumstance that only Google can identify, understand and track, which will not ever be measurable or **explicable** to anyone but Googlers and those in on the joke, and that can be monitored by only Google selected people Google knows will be of no threat to their dominance, and that leaves competitors confused and worse off than the status quo, because it creates the appearance of a solution when it is not.



# Can you find where Google hid the links to rivals in its results?

*"Google Commitments .... I. A. 2. c) provide references to pertinent competing services by displaying three Rival Links that are (i) presented in a manner to make users clearly aware of these alternatives"...*

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)






+Alena Search Images Mail Drive Calendar Sites Groups Contacts More -

Google dslr camera alenaf@google.com 4 + Share

Web Images Maps Shopping News More Search tools

About 40,200,000 results (0.34 seconds)

Google Shopping results Sponsored

 <a href="#">Canon Digital SLR Camera...</a> \$499.99 Canon	 <a href="#">Nikon 25462 D3000 10.2...</a> \$263.49 Tech For Less	 <a href="#">Canon EOS Rebel T3 Di...</a> \$999.95 Cameta...	 <a href="#">Canon EOS 7D Digital S...</a> \$1479.00 AllTimeTVs	 <a href="#">Canon EOS Rebel T4i 18...</a> \$1249.95 HSN
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Search on Site1, Site2, or Site3

**DSLRL: Digital SLR Cameras - Free Shipping - Best Buy**  
[www.bestbuy.com/...Cameras/Digital-SLR-Cameras/abcat0401...](http://www.bestbuy.com/...Cameras/Digital-SLR-Cameras/abcat0401...)  
Best Buy has Free Shipping & low prices & free shipping on **digital SLR cameras** (DSLRLs). We'll help you find the right camera to capture a lifetime of memories.  
[DSLRL Package Deals](#) - [DSLRL Body & Lens](#) - [Canon](#) : [DSLRL Package Deals](#) - [DSLRLs](#)

**Amazon.com: Digital SLR Cameras: Camera & Photo**  
[www.amazon.com/Digital-SLRs-Cameras-Photo/b?ie...](http://www.amazon.com/Digital-SLRs-Cameras-Photo/b?ie...)  
Results 1 - 24 of 1514 - Canon EOS Rebel T3i 18 MP CMOS APS-C Sensor DIGIC 4 Image Processor Full-HD Movie Mode **Digital SLR Camera** with 3.0-Inch ...  
[Olympus Evolt E420 10MP](#) ... - [Sony Alpha DSLR-A300](#) ...

**Single-lens reflex camera - Wikipedia, the free encyclopedia**  
[en.wikipedia.org/wiki/Single-lens\\_reflex\\_camera](http://en.wikipedia.org/wiki/Single-lens_reflex_camera)  
Jump to [Digital SLRs \(DSLRLs\)](#): Canon, Nikon and Pentax have all developed **digital SLR cameras** using the same lens mounts as on their respective film ...  
[Digital single-lens reflex camera](#) - [History of the single-lens reflex](#) ...

**Digital SLR Cameras - Nikon**  
[www.nikonusa.com/en/Nikon.../Digital-SLR-Cameras/index.pa...](http://www.nikonusa.com/en/Nikon.../Digital-SLR-Cameras/index.pa...)  
Nikon Digital SLRs combine the latest in technology with ease of use to produce incredible digital images. Compare the features, and delve into the specs here.

**Digital SLR buying guide - CNET Reviews**

You can't be serious!  
...can you?

# Do you think users are “*clearly aware of these alternatives?*”

“Google Commitments .... I. A. 2. c) provide references to pertinent competing services by displaying three Rival Links that are (i) presented in a manner to make users clearly aware of these alternatives”...

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

The screenshot shows a Google search for "dslr camera". The top navigation bar includes links for +Alena, Search, Images, Mail, Drive, Calendar, Sites, Groups, Contacts, and More. The search bar contains "dslr camera" and a search button. Below the search bar, there are tabs for Web, Images, Maps, Shopping, News, and More, along with a Search tools button. The results section shows "About 40,200,000 results (0.34 seconds)".

**Google Shopping results** (Sponsored)

Image	Product Name	Price	Store
	Canon Digital SLR Camera...	\$499.99	Canon
	Nikon 25462 D3000 10.2...	\$263.49	Teach For Less
	Canon EOS Rebel T3 Di...	\$999.95	Cameta...
	Canon EOS 7D Digital S...	\$1479.00	AllTimeTVs
	Canon EOS Rebel T4i 18...	\$1249.95	HSN

Search on Site1, Site2, or Site3

**Organic Search Results:**

- DSLR: Digital SLR Cameras - Free Shipping - Best Buy**  
[www.bestbuy.com/...Cameras/Digital-SLR-Cameras/abcat0401...](http://www.bestbuy.com/...Cameras/Digital-SLR-Cameras/abcat0401...)  
Best Buy has Free Shipping & low prices & free shipping on digital SLR cameras (DSLRs). We'll help you find the right camera to capture a lifetime of memories.  
DSLR Package Deals - DSLR Body & Lens - Canon : DSLR Package Deals - DSLRs
- Amazon.com: Digital SLR Cameras: Camera & Photo**  
[www.amazon.com/Digital-SLRs-Cameras-Photo/b?ie...](http://www.amazon.com/Digital-SLRs-Cameras-Photo/b?ie...)  
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Olympus Evolt E420 10MP ... - Sony Alpha DSLR-A300 ...
- Single-lens reflex camera - Wikipedia, the free encyclopedia**  
[en.wikipedia.org/wiki/Single-lens\\_reflex\\_camera](http://en.wikipedia.org/wiki/Single-lens_reflex_camera)  
Jump to **Digital SLRs (DSLRs)**: Canon, Nikon and Pentax have all developed digital SLR cameras using the same lens mounts as on their respective film ...  
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- Digital SLR Cameras - Nikon**  
[www.nikonusa.com/en/Nikon.../Digital-SLR-Cameras/index.pa...](http://www.nikonusa.com/en/Nikon.../Digital-SLR-Cameras/index.pa...)  
Nikon Digital SLRs combine the latest in technology with ease of use to produce incredible digital images. Compare the features, and delve into the specs here.
- Digital SLR buying guide - CNET Reviews**

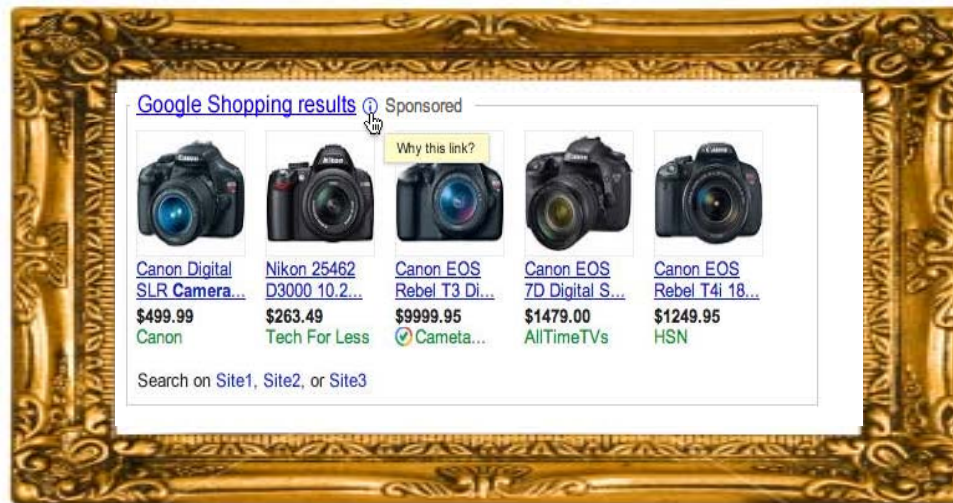
**F -**  
Who is the joke on? the EU?  
users? competitors? everyone?

Huh? Google proposes to make competitors pay up for random chance to get click scraps from Google rather than letting them compete on the merits in an “unbiased” search process?



# Google proposes to “frame” its results but not Competitors’

“Google offers to clearly separate [Google’s] promoted links from other web search results by clear graphical features (such as a frame)...” [http://europa.eu/rapid/press-release\\_IP-13-371\\_en.htm](http://europa.eu/rapid/press-release_IP-13-371_en.htm)



“b) distinguish the Google Specialised Results Link with graphical features, so that users do not confuse Google Specialised Results Links with Generic Search Results; “

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

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[www.bestbuy.com/...Cameras/Digital-SLR-Cameras/abcat0401...](http://www.bestbuy.com/...Cameras/Digital-SLR-Cameras/abcat0401...)

Best Buy has Free Shipping & low prices & free shipping on **digital SLR cameras** (DSLRs). We'll help you find the right camera to capture a lifetime of memories.

[DSLR Package Deals - DSLR Body & Lens - Canon : DSLR Package Deals - DSLRs](#)

[Amazon.com: Digital SLR Cameras: Camera & Photo](#)

[www.amazon.com/Digital-SLRs-Cameras-Photo/b?ie...](http://www.amazon.com/Digital-SLRs-Cameras-Photo/b?ie...)

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[Digital single-lens reflex camera - History of the single-lens reflex ...](#)

**F**  
Duh! Isn't it obvious that we frame things that are more valuable?  
This proposal doesn't promote rival links or competition; it reinforces Google's dominance!

# Google's Incredible Disappearing Search Remedy

Google's remedy fine-print defines search to exclude most of Google's searches!

**Google's definition of searches:** *"Google Commitment.... I. SEARCH A. Links To Google Specialised Search Results Pages 1. If Google, in response to a query entered in a Google General Search Box... "Google General Search Box" means an input field that allows users to search for web based content across multiple different content categories and that is displayed either (i) on a Google Web Page that belongs to a Google EEA Search Domain or (ii) within a Google General Search Application that is installed on a mobile device and is set to render search results from a Google EEA Search Domain."* [http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

Google's world's  
smartest lawyers



Searches

Google's world's smartest lawyers  
have defined out of their "remedy"

## Effectively excluded:

1. Syndicated searches on partner websites (~about half of all searches);
2. Searches from >900 million Google-Android devices;
3. Searches from a Google toolbar;
4. Searches from a browser with default search; and
5. Voice activated searches

# Google's Proposed Search Remedy is Easy to Get Around

## Addressing a Slice of the Results Page is like a Gate with No Fence

Google only commits to not manipulate a small part, <5% of the search results page

[http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

Google remains free to get around the commitments with >95% of the results page



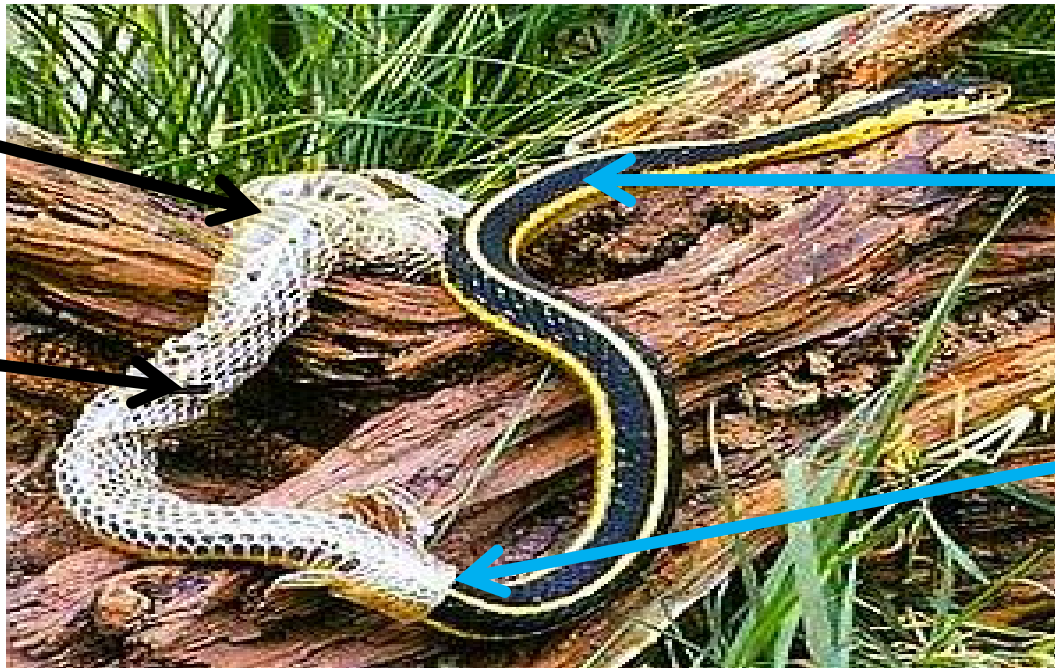
# Google can easily wiggle out of its proposed commitments

## Commitments apply to current, but not to future search technologies

*"Google Commitment.... I. SEARCH A. Links To Google Specialised Search Results Pages 1. If Google, in response to a query entered in a Google General Search Box... **"Google General Search Box"** means an input field that **allows users to search for web based** content across multiple different content categories and that is displayed either (i) on a Google Web Page that belongs to a Google EEA Search Domain or (ii) within a Google General Search Application that is installed on a mobile device and is set to render search results from a Google EEA Search Domain."* [http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/39740/39740\\_8608\\_5.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/39740/39740_8608_5.pdf)

Google  
Commitments  
Apply

Current  
Commitments



A+  
for sneakiness

Google  
Commitments  
Don't Apply

Google  
Innovation

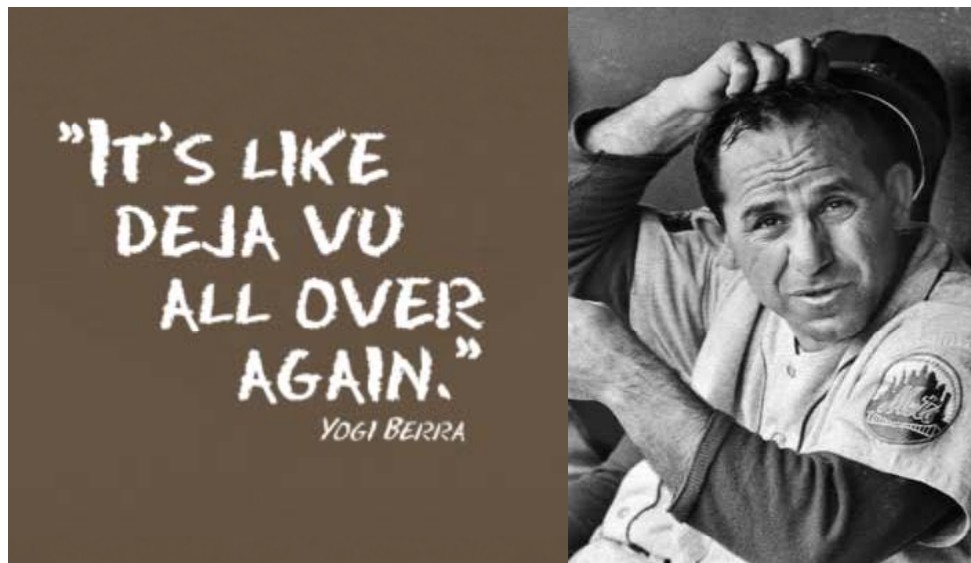


# “Its like déjà vu all over again.”

The U.S. DOJ saw through Google’s anti-competitive schemes in blocking Google’s proposed book settlement. Will the EU see through Google’s “remedy” schemes in the search bias “settlement” to legitimize and entrench its dominance further?

Judge Chin’s decision to block the proposed **Google Book Settlement**: “...Indeed, the ASA would give Google a significant advantage over competitors, rewarding it for engaging in wholesale copying of copyrighted works without permission, while releasing claims well beyond those presented in the case.”

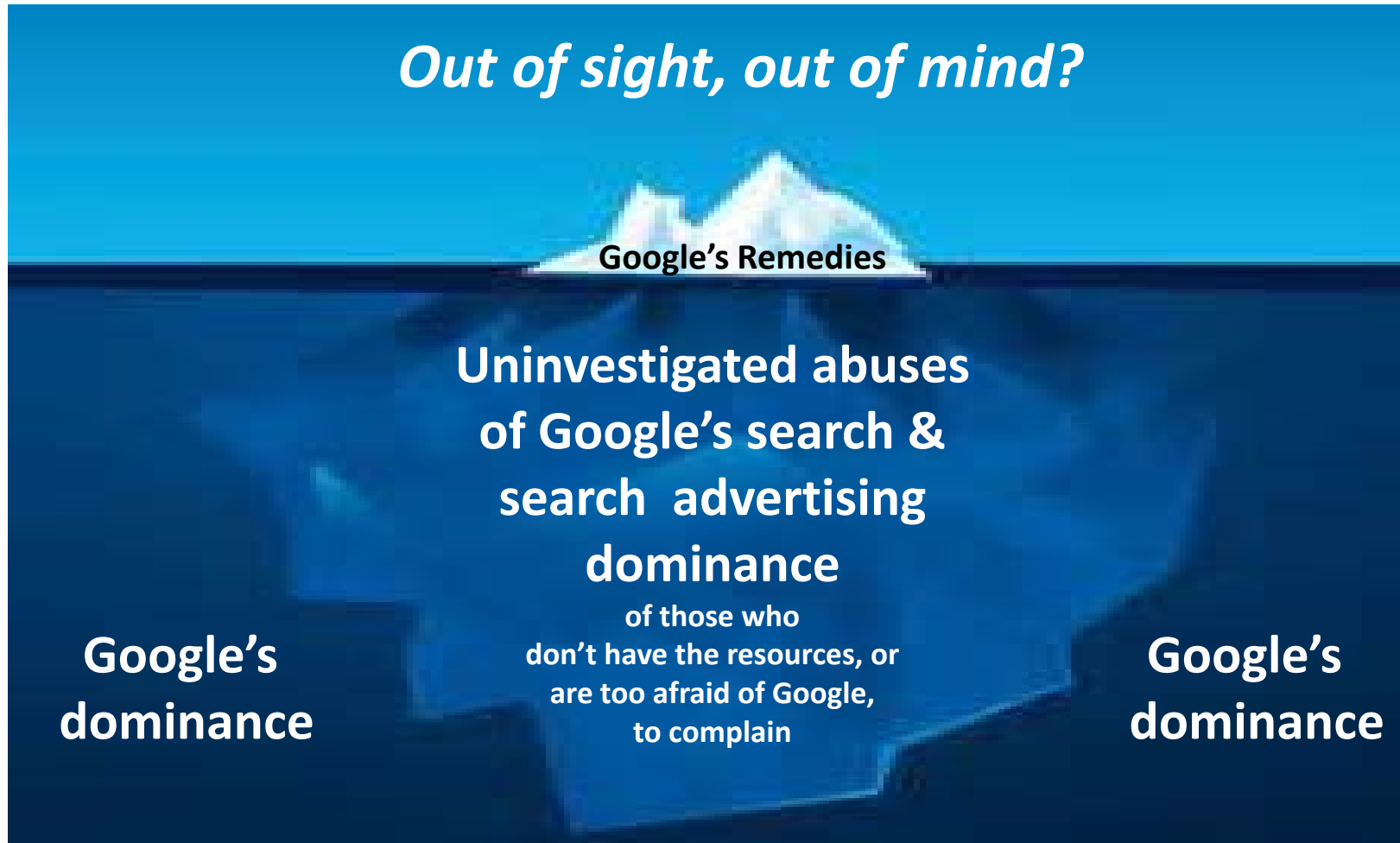
<http://www.scribd.com/doc/51331062/Google-Settlement-Rejection-Filing>



**Incomplete**  
The question is: will the EU be vigilant and tough with Google, like the U.S. DOJ in 2008, 2009, 2010, & 2012? Or weak like the FTC in 2013?

# Google's Titanic Search Remedy Proposal

*move along folks  
nothing to see here...*



## Conclusion:

# What could go wrong with accepting Google's search remedies?

Why keep an investigation open of a dominant firm which:

- Controls “*well above 90%*” share of the fastest growing part of the EU economy?
- Enjoys “*significant barriers to entry and network effects?*”
- Has been found to be “*abusing its dominance ... in four areas?*”
- Has been found to have anti-competitively abused standards essential patents?
- Is leveraging its dominance and abusive practices via Android into mobile?

What could possibly go wrong?

Ahoy!  
Gberg!  
ahead!

